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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,566	01/19/2001	Earl M. Rector JR.	UV-31CONT.	2141

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NEW YORK, NY 10020-1105

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/776,566

Applicant(s)

Rector, Jr. et al.

Examiner

Victor R. Kostak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Mar 10, 2003

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-18 and 42-50 is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-18 and 42-50 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6) ☐ Other: \_\_\_\_\_

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1. In view of applicant's arguments and based a review of the rejection regarding the Davis reference, the examiner has withdrawn that rejection. A new rejection based on different art has now been applied, presented below. The Office regrets prolonging prosecution.

2. Claims 1-3, 7-12, 16-18, 42-44 and 48-50 are now rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al.

The program distribution system and method of Hendricks (noting particularly Figs. 1, 3, 4 and 6-9) includes an operations center 202 (Fig. 1), plural operator computing stations 262 (Fig. 4), and a database of program data 268 (still Fig. 4). The CPU-assisted processing (264 of Fig. 7) features editing of menus (i.e. program guides) on-the-fly (col. 22 lines 62-64), which includes checking for conflicts using software and which prompts the operator to enter valid data (col. 23 lines 17-23; Figs. 8 and 9), thereby meeting claims 1, 10 and 42.

As for claims 2, 11 and 43, Hendricks includes user interfacing with the work stations, including graphics (col. 15 lines 6-19).

As for claims 3, 12 and 44, program errors are checked, as noted above.

Regarding claims 7, 16 and 48, the database is part of the main facility (i.e. the operation center 202).

As for claims 8, 17 and 49, the overall communication operation involves plural distributors (noting Fig. 2, for example).

Considering claims 9, 18 and 50, program menus are presented to the database.

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3. Claims 4-6, 13-15 and 45-47 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al.

As pointed out above, Hendricks edits schedule data on-the-fly using software, during construction and prior to distribution. Although he mentions editing and checking for conflicts in general terms, one of ordinary skill in the art would have readily considered those variable parameters making up schedule menus which can be subject to error, such as start and end times of programming, which when inaccurate can result in overlapping or gapping (Hendricks does in fact list various programming items in Tables A and B), thereby meeting claims 4, 6, 13, 15, 45 and 47.

Regarding claims 5, 14 and 46, it would also have been obvious to one of ordinary skill in the art to ensure that other schedule data capable of being erroneously displayed is prevented, such as duplication of listings (resulting from multiple providers or plural personnel working on schedule construction), since a primary concern of the headend operation is to present the final product without any flaws.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (703)-305-4374. The examiner can normally be reached on Monday through Friday from 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile, can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone (703) 306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (For either formal or informal communications intended for entry. For informal or draft communications, please label "PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**Victor R. Kostak**

**Primary Examiner**



VRK

3/21/03